Supreme Court, U.S.
FILED
JAN 2 2002
CLERK

No. 01-703

In The

Supreme Court of the United States

JAMES COMINSKY,

Petitioner,

v.

DIANE MALNER

and

ANDREW and SYLVIA ALJANCIC

Respondents.

On Petition For Writ Of Certiorari To The Ohio Supreme Court

SUPPLEMENTAL BRIEF FOR WRIT OF CERTIORARI

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STATEMENT OF FACTS

Now comes Petitioner who feels compelled to file this Supplemental Brief to the Writ of Certiorari for the following two reasons: 1) not to argue the errors of the trial court or to offend this Honorable Court in any way; but to demonstrate the extreme bias that was created by the trial judge's relationship with the Respondents' legal counsel; 2) being that the Writ of Certiorari was drafted by an attorney hired by Petitioner. Petitioner in return had to file Writ of Certiorari pro se because said attorney hired was not admitted to practice to this Honorable Court at this time, the due date for the filing of the Writ of Certiorari; and even though said attorney had ample time to draft the Writ of Certiorari, Petitioner was never given the opportunity to proofread the Writ of Certiorari; only the time to come in to said attorney office to sign page twenty of the Writ of Certiorari; the rest of the Writ of Certiorari was not made available to the Petitioner at this time to proofread. Petitioner feels that the following things mentioned should have been spelled out in more detail for this Honorable Court; to see the extreme bias that was held against Petitioner by the trial judge.

The trial court demonstrated its extreme bias towards the Petitioner by allowing the Respondents to enter into evidence (41) new exhibits that were never disclosed to the Petitioner, ten minutes before the trial ended on the last day of the trial, completely contrary to the admission of the Petitioner timely filed authenticated exhibits filed three months prior to the start of the trial and the court did in fact deny half of Petitioner's timely filed exhibits.

Petitioner can further demonstrate to this Honorable Court that the trial judge's calculations are off by some $55,000 in the trial judgment entry of Oct. 8, 1998 just by reading this judgment entry and adding the amounts stated of the total cost to build the "investment home" of $183,000 and then add the total cost to build the "dream home" of $302,000 and then add the small series of loans stated by the trial judge; that were borrowed to build these two homes; this is all mentioned on pages 40 and 41, in the Writ of Certiorari; then this Honorable Court will see the error of $55,000 more in costs borrowed to build the two homes. Furthermore, the trial judge denied the only audit done by a certified public accountant in this trial on the Respondents' own record keeping; which was conducted on all the original bank records, canceled checks, and receipts, which shows fraud regarding the Respondents. It was also testified to that one of the Respondents was collecting Survivorship Social Security Benefits and that Respondent would be committing fraud against the Government regarding claims to Petitioner's business and income; which these facts were totally ignored by the trial judge. The trial judge further ignored the testimony of one of the Respondents where Respondent Andrew Aljancic testified that I, the Petitioner, was to make the money on the building of the homes and he was to make the money on the sale of the lots, further demonstrating a partnership. The trial court's judgment entry of October 8, 1998, located on page 39 of the Writ of Certiorari, misstates a fact of a non-existing deed of the true ownership of said property when it was purchased in 1989, "that the Respondents the 'Aljancics' were not identified as co-owners of said property." This in hand

caused the appellate court to also misstate this fact in their judgment entry of January 2, 2001 on page 25 of the Writ of Certiorari. The true deed, when said property was originally purchased in 1989, shows the Aljancics as the co-owners of this property. Also the Petitioner and two of the Respondents – the Aljancics – had agreed to settle our matter in writing before the pretrial conference, but the trial judge would not let us settle our dispute.

The Petitioner requests that this Honorable Supreme Court grant certiorari and allow this case to be reviewed on the merits. Also Petitioner will assure this Honorable Court that Petitioner will be represented by competent legal counsel in this matter if certiorari is granted.

Respectfully submitted,

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